



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/170736

PRELIMINARY RECITALS

Pursuant to a petition filed December 14, 2015, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) prior authorization for personal care worker (PCW) services, a hearing was held on January 20, 2016, by telephone.

The issue for determination is whether the requested PCW services were justified in the request.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Written submission of [REDACTED] Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 59-year-old resident of Milwaukee County who receives MA.
2. Petitioner has bilateral osteoarthritis and pain in his left shoulder along with arthritis in his knees. He has received PCW services paid by MA in the past.
3. On November 17, 2015 [REDACTED] requested 14 hours per week PCW services along with 24 hours per year "as needed" PCW services for petitioner, PA no. [REDACTED]. The DHCAA modified the request by a letter dated December 4, 2015.
4. The request specifically justified 11.75 hours per week, but added to the request 2.25 hours per week were to increase the specified hours to petitioner's doctor's recommendation of 2 hours per

day PCW services. The DHCAA granted 10.25 hours per week. It disallowed 1.5 hour for dressing on the basis that records showed that petitioner could dress his upper body himself. The “as needed” hours were approved.

DISCUSSION

Personal care services are “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3. It is the provider’s responsibility to justify the need for the service. Wis. Admin. Code, §DHS 107.02(3)(d)6.

The DHCAA now utilizes a Personal Care Screening Tool, a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the DHCAA’s reviewer can then adjust to account for variables missing from the screening tool’s calculations.

The DHCAA granted all of the hours specified as needing assistance except for time to dress petitioner’s upper body. I asked petitioner about putting on shirts, and he said he could do so except on bad days. The hours approved are for the person’s usual functioning; the DHCAA does not give regular time for irregular occurrences. The DHCAA gives additional time in “as needed” hours for such occurrences, and the DHCAA did so in this case in addition to the regular weekly hours. The DHCAA did not approve the additional 2.25 hours added in to equal the doctor’s recommendation; the PA request must justify specific services needed by the client.

Petitioner testified that since the request was made he has had two major changes. First, his wife moved out in December, 2015. This is important because assistance from household members is considered in the approval process. Second, he said that arthritis has been diagnosed in his ankles now as well. I cannot consider those changes at this time as I have no way to determine how they would affect the PCW hours. When changes occur in the middle of an authorization period, the provider should submit a request for an amendment. Petitioner said that he thought an amendment had been filed, but I checked with the

consultant and no amendment has been filed. Petitioner should speak with his contact person at MCFI Home Health about getting an amendment filed.

CONCLUSIONS OF LAW

The DHCAA correctly modified the request for PCW services based upon petitioner's circumstances when the request was filed.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 26th day of January, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 26, 2016.

Division of Health Care Access and Accountability